

MIKT5 meeting 7 June 2022 (online)

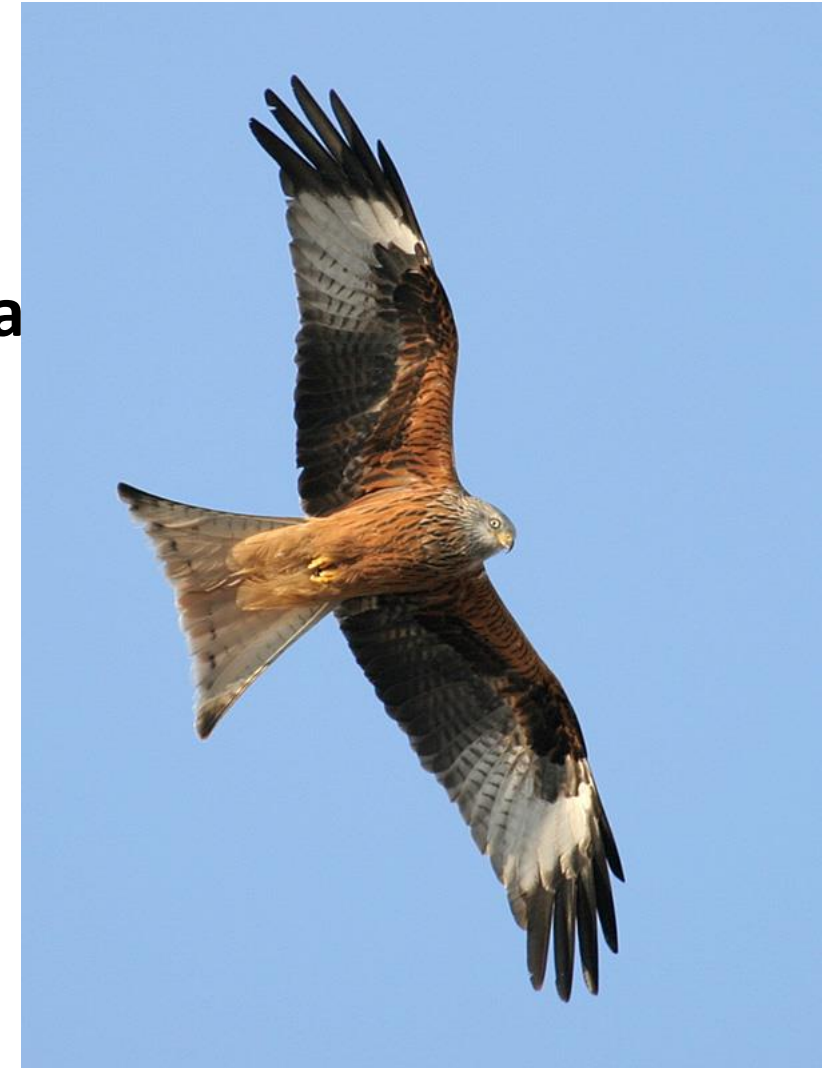
Project **BIOVAL**: a non-binding practical tool to va
damages to species in court proceedings

F. Bouquelle, coordinator EUFJE

University of Ghent



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT





EUFJE seeks to:

- Foster knowledge of environmental law among judges;
- Exchange of experiences in area of training of the judiciary in environmental law;
- Share environmental case law;
- Contribute to better implementation and enforcement environmental law.

Belgium: Marsh harrier poisoning case 2018



BIOVAL: objective

- Joint project of EUFJE, IMPEL, ENPE
- Create a non-binding, practical instrument to value ecological damages in court
- Focus on compensation, **NOT** on sanctions / fines / penalties
- Scope: valuation of wild fauna / vertebrates
- 2020: find and examine existing price list legislation in EU Member States through online survey of judges, prosecutors, inspectors in 2020
- 2021: start note Instituut voor Natuur- en Bosonderzoek
- 2022: expert workshops to discuss and refine INBO study
- 2023: double check INBO proposal and develop online tool
- 2024: dissemination BIOVAL tool

Thanks for your attention!

Questions/interested?

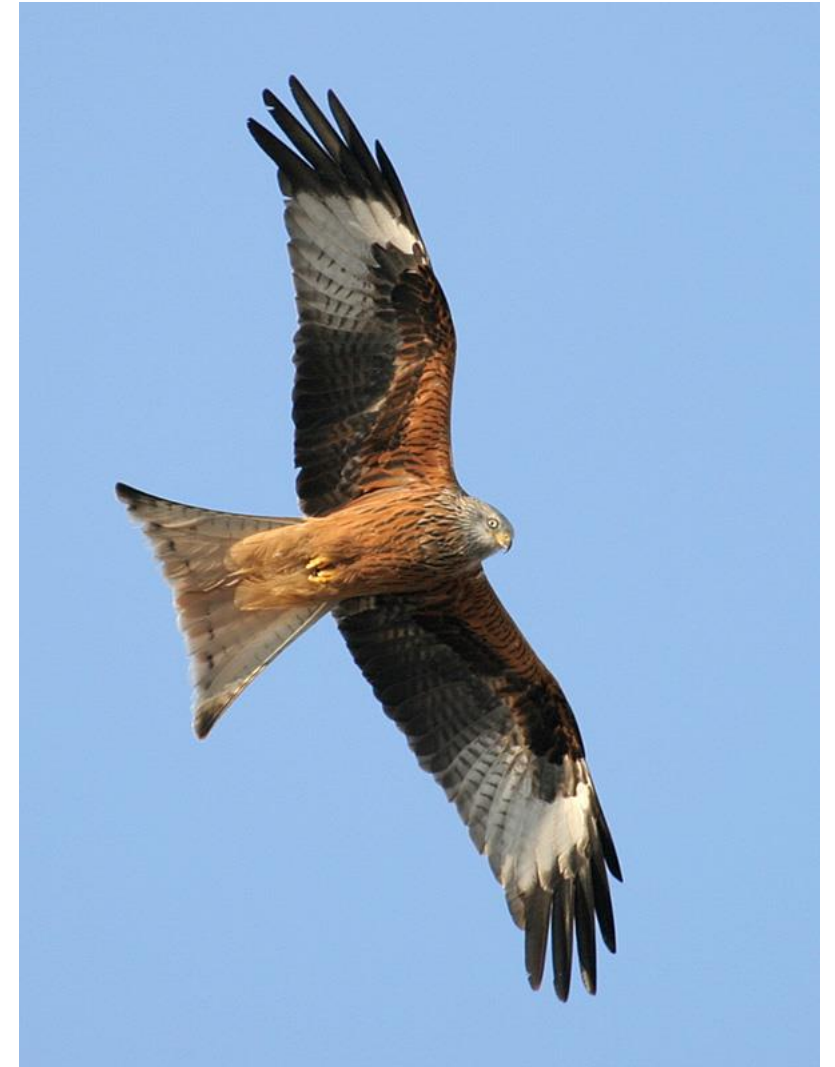
Contact:

EUFJE

farah.bouquelle@eufje.org



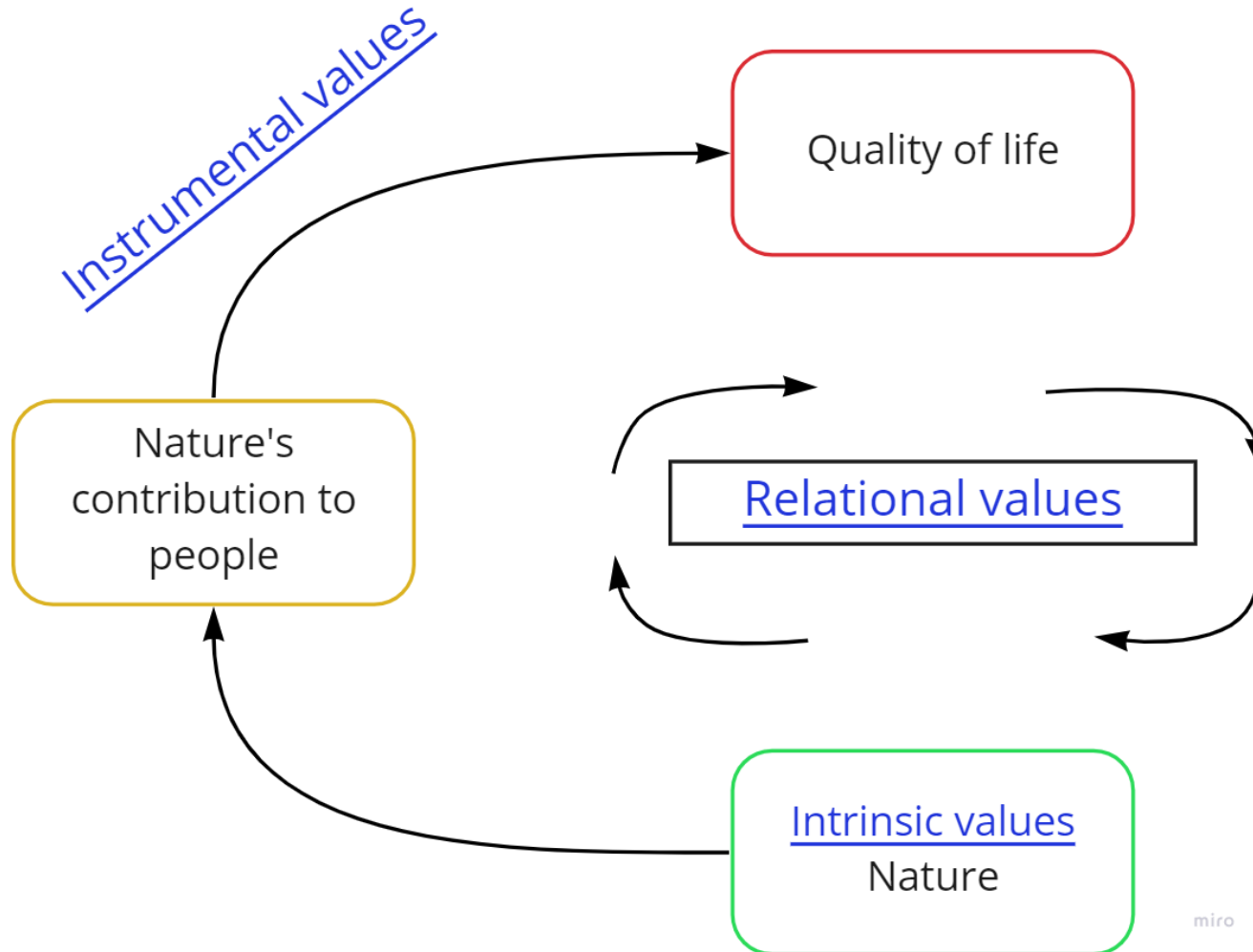
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Proposal for a practical framework to determine financial compensations for ecological and societal losses

A discussion note prepared for the Bioval project

Choice of framework



Category	Number of criteria	Number of unique criteria	Sources
Species rarity and conservation status	14	6	Bioval survey, Naves et al. 2020, Bern Convention, ELD, Perm Decree, Finland Conservation act
Conservation cost and effort	3	2	Bioval survey, Naves et al. 2020
Ecosystem functioning	8	6	Bioval Survey, Naves et al. 2020, Bern Convention, Perm Decree
Social value	4	4 (with high overlap)	Bioval survey, ELD
Market value	4	4	Bioval survey, Bern Convention
Scale	4	3	Bioval survey, Bern Convention, Perm Decree
Crime- related	6	5	Bioval survey, Bern Convention



Methodologies used

$Y = (R * C / P) * 200 \text{ euros}$	<p>R = reproductive capacity (estimate simplified by using the mean weight (g) (log10) of species) ; C = conservation status (Red list category); P = population size ; Multiplier (200 euro) based on the real costs of conservation of white-tailed sea eagle (7.400 euro / adult individual in 1994)</p>
$Y = C_i \times S \times D \times \text{minimum wage} \times K$	<p>Y is the amount of compensation for damage caused by destruction or degradation (damage) of the habitat of animals and plants (in rubles); C_i - the cost of an area unit (1 hectare, 1 sq. M) of the initial habitat of flora and fauna before the start of economic impact (in units of multiples of the minimum wage) is established by habitat category in accordance with Appendix 1 to the Methodology; S is the area of the habitat site subjected to anthropogenic (economic) impact (in hectares or square meters); D - coefficient of the degree of anthropogenic degradation (damage) of the original habitat. It is determined in accordance with the class of habitat condition presented in Appendix 2 to the Methodology. K is the coefficient of the ecological significance of the territory. It is established in the amount of: 2.0 - for specially protected natural areas of regional significance, habitats of flora and fauna objects listed in the Red Book of the Perm Region</p>
$Y = (C \times L \times E \times B + \text{MORA}) \times 2$	<p>The baseline cost "C", linked to the detection of damage to wild fauna: € 300 •The weighting coefficient for the damage to the fauna (L) in accordance with the legal situation of the species (based on the NHBA in Spain or on the national classifications of other EU Member States, supplemented, nuanced or replaced, depending on the circumstances in each State, by the IUCN categories), which is applied to the baseline cost (See Table 12): (a) Critical situation: 70 times the baseline cost (e.g. €300 x 70). (b) In danger of extinction: 60 times the baseline cost. (c) Vulnerable situation: 40 times the baseline cost. (d) Near threatened: 20 times the baseline cost. (e) Least concern: 6.5 times the baseline cost. (f) Deficient data: 5 times the baseline cost. •Weighting for endemism (E): (a) x 1 no endemism• (b) x 2 endemism• Weighting for biological determinants of the species (B): (a) x 1.1 for immature specimens or eggs (b) x 1.5 for mature specimens• Inclusion of the cost of remediation of the damage done to the specimen, in which case the order of magnitude established by MORA (M) shall be used as reference. (see Annex III) •Maximum weighting for other determinants (where applicable): M x 2.</p>

Proposed methodology

Total amount for compensation

Conservation status

Cultural value

Ecological
significance

Remediation cost

UI		UB	
NT	VU	EN	CR

- ▶ Conservation status has 3 levels
 - Favourable
 - Unfavourable – Inadequate (UI)
 - Unfavourable – Bad (UB)
- ▶ The IUCN Red List has 7 statuses, with 5 relevant
 - Least Concern (LC)
 - Near Threatened (NT)
 - Vulnerable (VU)
 - Endangered (EN)
 - Critically endangered, Extinct and Extinct in the wild (CR)



Level A

Level B

- A. Is this specimen or species regarded as an important part of the local culture?
- B. Attracted this specimen or species a lot of interest both locally and further away?

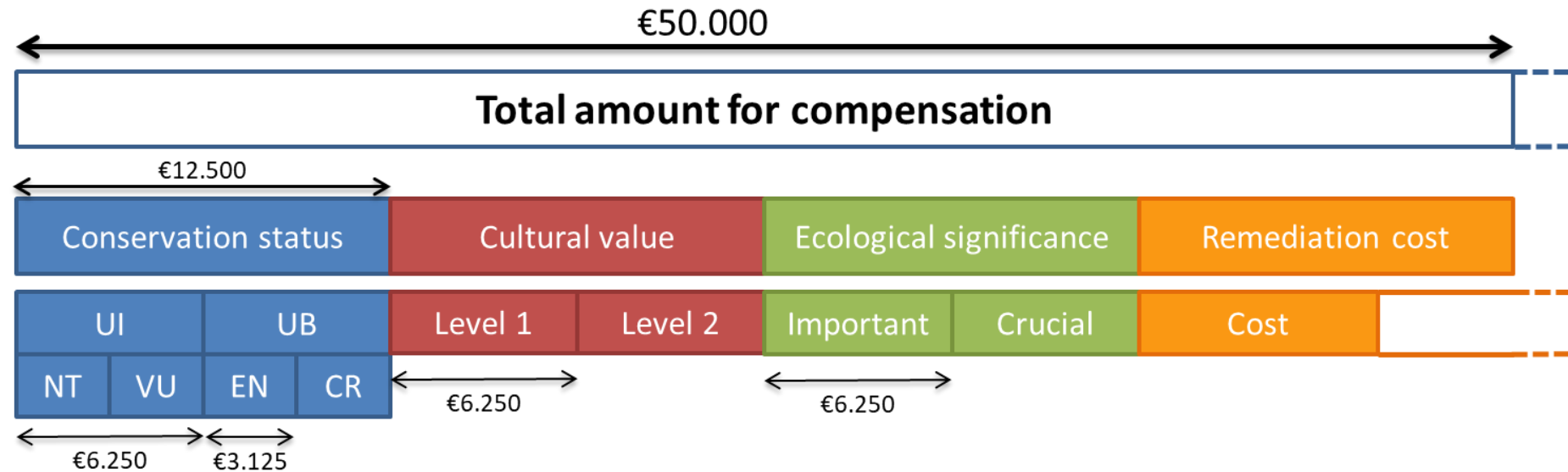
Important	Crucial
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1. This species has no special ecological function in this ecosystem
2. This species has a certain ecological role in this ecosystem
3. This species is a keystone species of the ecosystem

Remediation cost

- ▶ Reintroduction of a specimen with the same characteristics
- ▶ Can be consulted at the local animal shelter or nature conservation agency or NGO, in analogy of the Spanish MORA of Naves et al.
- ▶ Should be able to surpass the fixed amount.

For a theoretical amount of 50.000

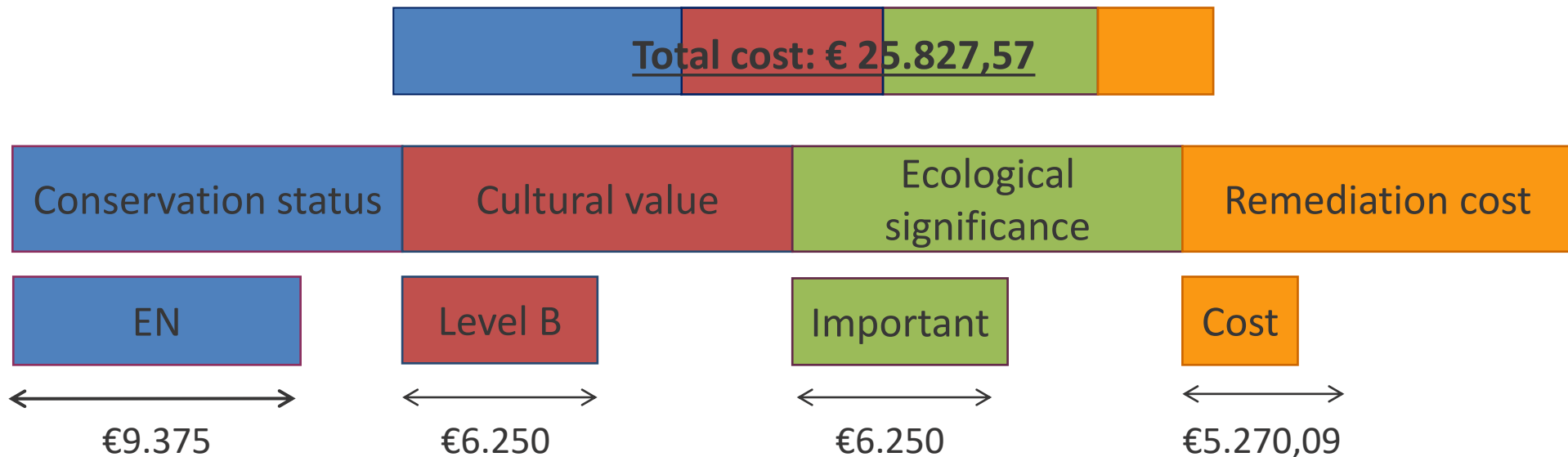


With some extra specifications:

- **The market value** should be the minimal value of the compensation and the fine.
- If the **remaining population becomes unviable** because of the crime, the compensation should be for the whole population.
- For **damages that cannot be remediated**, a satisfying solution should be found.

What about the March Harrier?

- ▶ Conservation status: Endangered (2018) – €9.375
- ▶ Cultural value: level B – €6.250
- ▶ Ecological significance: 1 – €6.250
- ▶ Remediation cost: €5.270,09



Self-evaluation of the formula

► Weaknesses

- This formula suffers from much the **same weakness as the other methodologies**, namely that it uses **randomly assigned values**. This should not come as a surprise since what is acceptable as a compensation is a normative rather than a factual question.
- There is still a **certain amount of case specific information** necessary. Nonetheless, the data requirements are rather low.
- Depending on the maximum value, the **resulting amounts can be very high**.

Self-evaluation of the formula

► Strengths:

- The formula achieves to acknowledge the **multiple values of nature** and includes **all the different categories**, which is an improvement compared to the already existing methods.
- **The addition**, as opposed to the multiplication, leaves the **possibility** for specimens that have a negligible ecological role and no cultural value to just be **compensated with the primary remediation**. This results in more realistic and acceptable compensation amounts.
- The formula is **flexible, you can adapt the max amount** or the weights to make it socially acceptable.
- The methodology **could easily be transferred** and adopted to other regions and countries as most of the data is available on at least the European scale.